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November 12, 2003

VIA HAND DELIVERY

Hon. Deborah Taylor Tate, Chairman
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37238

Re: *AT&T Communications of the South Central States and TCG MidSouth, Inc.'s Petition for Structural Separation of BellSouth Telecommunications, Inc.*
Docket No. 01-00405

Dear Chairman Tate:

It was recently reported in *Telecommunications Reports* that AT&T had agreed to not actively pursue its petition for structural separation of BellSouth in Tennessee during the pendency of the state Triennial Review Order proceedings. Alerted to the matter by the article in *Telecommunications Reports*, BellSouth obtained a copy of AT&T's letter of October 17, 2003 to the Authority stating its position on the status of the petition. BellSouth was not served by AT&T with a copy of that letter.

After reviewing the letter, BellSouth feels compelled to respond, particularly to AT&T's remarkable statement that "... arguably the problems that gave rise to the Petition are more acute today than when this case was filed." In fact, AT&T's petition lacked merit the day it was filed, May 2, 2001. In its Petition, AT&T asked the Authority to order that BellSouth be split into separate wholesale and retail companies. In 2001, AT&T filed a number of such petitions throughout the country. Predictably, AT&T's efforts were uniformly unsuccessful.

AT&T's *Petition* was based on the premise that BellSouth's local markets were not open to competition and that BellSouth was a "monopoly" provider. (See Petition at p. 3). Since the filing of its *Petition*, both the TRA and FCC have found that BellSouth's

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local markets are open to competition and have approved BellSouth's entry into the long distance market.¹ These findings flatly contradict AT&T's allegation that BellSouth's "structure" and "monopoly status" make it impossible for BellSouth to open its markets.

AT&T's other arguments also lack merit. For example, much of AT&T's *Petition for Structural Separation* deals with unfounded allegations with respect to BellSouth's Operational Support Systems ("OSS"). (See *Petition* at p. 9). As AT&T well knows, both the TRA and FCC found that BellSouth provides nondiscriminatory access to its OSS.² AT&T further states in its *Petition* that "a second critical obstacle" has been BellSouth's unwillingness to provide unbundled network elements. (See *Petition* at p. 9-10.) Again, both the TRA and the FCC determined during the 271 proceedings that BellSouth provides nondiscriminatory access to unbundled network elements.³

In summary, it is clear that the *Petition* is moot and should be withdrawn. If AT&T is not willing to dismiss its *Petition* voluntarily, the Authority should dismiss it. Contrary to the statements AT&T made in its letter of October 17, this will not involve "yet another lengthy, complex regulatory proceeding." AT&T's *Petition for Structural Separation* is a relic from the past, lacks merit, and its underlying claims have been addressed and resolved in subsequent proceedings, particularly the state and federal 271 proceedings.

Very truly yours,



Guy M. Hicks

GMH:ch

¹ "We grant BellSouth's application in this Order based on our conclusion that BellSouth has taken the statutorily required steps to open its local exchange markets in these states to competition." See ¶ 1 of FCC's *Memorandum Opinion and Order* in WC Docket No. 02-307, entered December 19, 2002, approving BellSouth's 271 application in Tennessee and Florida.

² *Id.* ¶ 67.

³ *Id.* ¶¶ 1, 23.

CERTIFICATE OF SERVICE

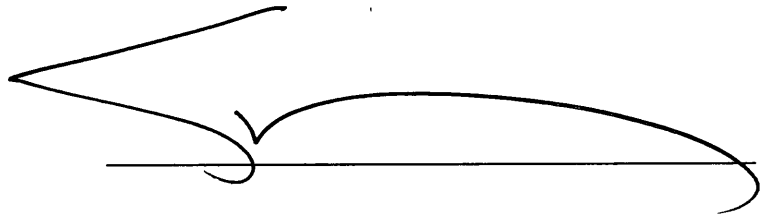
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A large, stylized handwritten signature in black ink, featuring a long horizontal stroke with a large loop and a sharp upward flick.